

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFEREES - CORPORATION TAX BUREAU

In the Matter of the Applications of

REX CHAINBELT, INC.

for refund of franchise taxes under
Article 9-A of the Tax Law for the
fiscal years ended October 31, 1963,
1964 and 1965.

Hearing Case No. 6122

The taxpayer filed franchise tax reports and has paid taxes
for such years as follows:

<u>Fiscal Year Ended</u>	<u>Amount Paid</u>
10/31/63	\$4,342.69
10/31/64	5,015.29
10/31/65	7,569.79

Applications for refund were timely filed on November 17, 1966.

The only question involved is whether or not the corporation,
incorporated in Wisconsin in 1892, was doing business in New York State so as
to be subject to tax.

Forms 245 CT, Activities Report of Foreign Corporations, have
been filed with each of the applications, disclaiming liability for
franchise tax on the grounds that its only business in New York State
constituted entirely interstate commerce. The taxpayer, incorporated
in Wisconsin on February 23, 1892, is engaged in the manufacture and
sale of various metal products. It owned no real property in New York
and had no stock of goods or inventory in New York State.

Its activities in New York, according to its applications, con-
sisted of four district sales offices. The orders solicited through
such offices were forwarded to plants and warehouses outside New York
where they were accepted and from which points the merchandise was
shipped by common carrier direct to customers.

Occasionally, installation of products manufactured by the
company outside New York State is done by hiring local millwrights in
New York State and, according to the applications, the taxpayer provides
supervision only to insure proper installation of their product. Set
forth below is information with respect to installations in New York,
indicating those where separate charges were made for installation.

<u>Years</u> <u>Ended</u>	<u>No. of N.Y. install-</u> <u>ations where separate</u> <u>charges were made</u>	<u>Number of</u> <u>Supervisory</u> <u>Employees</u>	<u>Separate</u> <u>charges for</u> <u>Installations</u>	<u>Total gross</u> <u>receipts within</u> <u>& without N.Y.</u>
10/31/63	1	1	\$26,628	\$ 87,219,000
10/31/64	1	1	None	103,909,000
10/31/65	5	4	78,971	125,090,000

Based upon the foregoing, the Board has concluded that the
taxpayer has not been doing business within New York State so as to be
subject to tax and recommends refund of the taxes as set forth above.

The taxpayer has also filed an activities report for the fiscal year ended October 31, 1966 on the basis of which we have concluded the corporation is not subject to tax and we accordingly recommend refund of installment payments totalling \$7,191.31 made towards the estimated tax for such year.

/s/

W. F. SULLIVAN

Chairman

/s/

JOHN J. GENEVICH

/s/

DONALD H. GILHOOLY

DG:MB

2/14/67

Approved

E. A. DORAN

APPROVED: WALTER MACLYN CONLON 20 FEB. '67

O.K. JAMES R. MACDUFF 3-1-67